

AMENDED IN ASSEMBLY JUNE 30, 2009

AMENDED IN SENATE MAY 19, 2009

AMENDED IN SENATE APRIL 20, 2009

SENATE BILL

No. 43

Introduced by Senator Alquist

(Principal coauthor: Assembly Member Torrico)

January 6, 2009

~~An act to add Section 851.5 to the Business and Professions Code, to amend Section 128051 of the Health and Safety Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to health professions. An act to add Section 6532 to the Government Code, relating to joint powers agencies.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Alquist. ~~Health professions. Joint powers agencies: City of Santa Clara.~~

Under existing law, 2 or more public agencies may enter into an agreement to jointly exercise any power common to the contracting parties, as specified.

This bill would authorize a joint powers agency that includes the City of Santa Clara and the Redevelopment Agency of the City of Santa Clara formed to construct, operate, or maintain a stadium for use by a professional football team to let a design-build contract without utilizing the competitive bid process for the stadium construction project, as specified.

~~Existing law provides for the licensure and regulation of various healing arts by boards within the Department of Consumer Affairs. Existing law establishes the Task Force on Culturally and Linguistically~~

~~Competent Physicians and Dentists and assigns the task force various duties, including, among other things, identifying the key cultural elements necessary to meet cultural competency. Existing law authorizes physicians and surgeons, dentists, and dental auxiliaries to report information regarding their cultural background and foreign language proficiency to their respective licensing boards and requires those boards to collect that information, as specified.~~

~~This bill would authorize the healing arts boards, as defined, to collect information regarding the cultural and linguistic competency of persons licensed, certified, registered, or otherwise subject to regulation by those boards. The bill would require that this information be used only for the purpose of meeting the cultural and linguistic concerns of the state's diverse patient population.~~

~~Existing law requires the Office of Statewide Health Planning and Development to establish a health care workforce clearinghouse to serve as the central source of health care workforce and educational data in the state and requires the office to work with specified entities to collect that data. Existing law requires the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes.~~

~~This bill would additionally require the director to permit the use of that information by the Office of Statewide Health Planning and Development for the health care workforce clearinghouse. The bill would specify that personally identifiable information obtained by that office for the health care workforce clearinghouse is confidential and not subject to public inspection.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6532 is added to the Government Code,
- 2 to read:
- 3 6532. (a) The Legislature finds and declares that it is in the
- 4 best interest of the communities located within the City of Santa
- 5 Clara that a joint powers agency that includes the City of Santa
- 6 Clara and the Redevelopment Agency of the City of Santa Clara
- 7 formed to construct, operate, or maintain a stadium for use by a
- 8 professional football team be authorized to let a sole source
- 9 contract for the stadium construction project to a qualified

1 *design-build contractor. This authorization may enable that joint*
 2 *powers agency to prevent cost overruns, improve efficiency, and*
 3 *benefit from specialized expertise.*

4 *(b) Notwithstanding any other provision of law, and subject to*
 5 *subdivision (c), a joint powers agency including the City of Santa*
 6 *Clara and the Redevelopment Agency of the City of Santa Clara*
 7 *formed to construct, operate, or maintain a stadium for use by a*
 8 *professional football team may award a design-build contract*
 9 *related to that stadium to a qualified design-build contractor*
 10 *without utilizing an otherwise applicable competitive bid process,*
 11 *provided that the governing body of the joint powers agency*
 12 *determines that the cost of the contract is reasonable and that*
 13 *award of the contract without utilizing the competitive bid process*
 14 *is in the best interest of the joint powers agency.*

15 *(c) A joint powers agency that includes the City of Santa Clara*
 16 *and the Redevelopment Agency of the City of Santa Clara shall*
 17 *not award a design-build contract pursuant to subdivision (b)*
 18 *unless all of the following conditions are met:*

19 *(1) The design-build contract does not require expenditure of*
 20 *money from the general fund of the City of Santa Clara.*

21 *(2) The obligation of the Redevelopment Agency of the City of*
 22 *Santa Clara to contribute funding toward amounts due under the*
 23 *design-build contract is limited to a specified maximum amount,*
 24 *provided that the specified maximum amount need not apply to*
 25 *debt service and other financing costs.*

26 *(3) A private party will be responsible for any construction cost*
 27 *overruns.*

28 *(d) A joint powers agency awarding a design-build contract*
 29 *pursuant to this section shall require that subcontract work be*
 30 *awarded through a competitive process established by the joint*
 31 *powers agency.*

32 *(e) Notwithstanding Section 3248 of the Civil Code, for*
 33 *design-build contracts awarded pursuant to this section, the joint*
 34 *powers agency may specify that the payment bond shall be in a*
 35 *sum not less than one-half of the contract price or three hundred*
 36 *million dollars (\$300,000,000), whichever is less.*

37 *SEC. 2. The Legislature finds and declares that Section 1 of*
 38 *this act, which adds Section 6532 to the Government Code, is a*
 39 *special law which is necessary because a general law cannot be*
 40 *made applicable within the meaning of Section 16 of Article IV of*

1 *the California Constitution because of the unique circumstances*
2 *of the City of Santa Clara. In that respect, the City of Santa Clara*
3 *needs to address the unemployment rate in and around the City*
4 *of Santa Clara and the San Francisco Bay Area.*

5 ~~SECTION 1. Section 851.5 is added to the Business and~~
6 ~~Professions Code, to read:~~

7 ~~851.5. (a) A healing arts board referred to in this division may,~~
8 ~~in a manner deemed appropriate by the board, collect information~~
9 ~~regarding the cultural and linguistic competency of persons~~
10 ~~licensed, certified, registered, or otherwise subject to regulation~~
11 ~~by that board.~~

12 ~~(b) The information collected pursuant to this section shall be~~
13 ~~used for the purpose of meeting the cultural and linguistic concerns~~
14 ~~of the state's diverse patient population. Any other use of the~~
15 ~~information collected pursuant to this section is prohibited.~~

16 ~~(c) Personally identifiable information collected pursuant to this~~
17 ~~section shall be confidential and not subject to public inspection.~~

18 ~~(d) The authority provided in this section shall be in addition~~
19 ~~to, and not a limitation on, the authority provided under subdivision~~
20 ~~(c) of Section 2425.3 and subdivision (d) of Section 1717.5.~~

21 ~~(e) For purposes of this section, "board" refers to any healing~~
22 ~~arts board, division, or examining committee that licenses, certifies,~~
23 ~~or regulates health professionals pursuant to this division.~~

24 ~~SEC. 2. Section 128051 of the Health and Safety Code is~~
25 ~~amended to read:~~

26 ~~128051. (a) The Office of Statewide Health Planning and~~
27 ~~Development shall work with the Employment Development~~
28 ~~Department's Labor Market Information Division, state licensing~~
29 ~~boards, and state higher education entities to collect, to the extent~~
30 ~~available, all of the following data:~~

31 ~~(1) The current supply of health care workers, by specialty.~~

32 ~~(2) The geographical distribution of health care workers, by~~
33 ~~specialty.~~

34 ~~(3) The diversity of the health care workforce, by specialty,~~
35 ~~including, but not necessarily limited to, data on race, ethnicity,~~
36 ~~and languages spoken.~~

37 ~~(4) The current and forecasted demand for health care workers,~~
38 ~~by specialty.~~

39 ~~(5) The educational capacity to produce trained, certified, and~~
40 ~~licensed health care workers, by specialty and by geographical~~

1 distribution, including, but not necessarily limited to, the number
2 of educational slots, the number of enrollments, the attrition rate,
3 and wait time to enter the program of study.

4 ~~(b) Personally identifiable information collected for purposes~~
5 ~~of this article shall be confidential and not subject to public~~
6 ~~inspection.~~

7 ~~SEC. 3. Section 1095 of the Unemployment Insurance Code~~
8 ~~is amended to read:~~

9 ~~1095. The director shall permit the use of any information in~~
10 ~~his or her possession to the extent necessary for any of the~~
11 ~~following purposes and may require reimbursement for all direct~~
12 ~~costs incurred in providing any and all information specified in~~
13 ~~this section, except information specified in subdivisions (a) to~~
14 ~~(e), inclusive:~~

15 ~~(a) To enable the director or his or her representative to carry~~
16 ~~out his or her responsibilities under this code.~~

17 ~~(b) To properly present a claim for benefits.~~

18 ~~(c) To acquaint a worker or his or her authorized agent with his~~
19 ~~or her existing or prospective right to benefits.~~

20 ~~(d) To furnish an employer or his or her authorized agent with~~
21 ~~information to enable him or her to fully discharge his or her~~
22 ~~obligations or safeguard his or her rights under this division or~~
23 ~~Division 3 (commencing with Section 9000).~~

24 ~~(e) To enable an employer to receive a reduction in contribution~~
25 ~~rate.~~

26 ~~(f) To enable federal, state, or local government departments~~
27 ~~or agencies, subject to federal law, to verify or determine the~~
28 ~~eligibility or entitlement of an applicant for, or a recipient of, public~~
29 ~~social services provided pursuant to Division 9 (commencing with~~
30 ~~Section 10000) of the Welfare and Institutions Code, or Part A of~~
31 ~~Title IV of the Social Security Act, where the verification or~~
32 ~~determination is directly connected with, and limited to, the~~
33 ~~administration of public social services.~~

34 ~~(g) To enable county administrators of general relief or~~
35 ~~assistance, or their representatives, to determine entitlement to~~
36 ~~locally provided general relief or assistance, where the~~
37 ~~determination is directly connected with, and limited to, the~~
38 ~~administration of general relief or assistance.~~

39 ~~(h) To enable state or local governmental departments or~~
40 ~~agencies to seek criminal, civil, or administrative remedies in~~

1 connection with the unlawful application for, or receipt of, relief
2 provided under Division 9 (commencing with Section 10000) of
3 the Welfare and Institutions Code or to enable the collection of
4 expenditures for medical assistance services pursuant to Part 5
5 (commencing with Section 17000) of Division 9 of the Welfare
6 and Institutions Code.

7 (i) To provide any law enforcement agency with the name,
8 address, telephone number, birth date, social security number,
9 physical description, and names and addresses of present and past
10 employers, of any victim, suspect, missing person, potential
11 witness, or person for whom a felony arrest warrant has been
12 issued, when a request for this information is made by any
13 investigator or peace officer as defined by Sections 830.1 and
14 830.2 of the Penal Code, or by any federal law enforcement officer
15 to whom the Attorney General has delegated authority to enforce
16 federal search warrants, as defined under Sections 60.2 and 60.3
17 of Title 28 of the Code of Federal Regulations, as amended, and
18 when the requesting officer has been designated by the head of
19 the law enforcement agency and requests this information in the
20 course of and as a part of an investigation into the commission of
21 a crime when there is a reasonable suspicion that the crime is a
22 felony and that the information would lead to relevant evidence.
23 The information provided pursuant to this subdivision shall be
24 provided to the extent permitted by federal law and regulations,
25 and to the extent the information is available and accessible within
26 the constraints and configurations of existing department records.
27 Any person who receives any information under this subdivision
28 shall make a written report of the information to the law
29 enforcement agency that employs him or her, for filing under the
30 normal procedures of that agency.

31 (1) This subdivision shall not be construed to authorize the
32 release to any law enforcement agency of a general list identifying
33 individuals applying for or receiving benefits.

34 (2) The department shall maintain records pursuant to this
35 subdivision only for periods required under regulations or statutes
36 enacted for the administration of its programs.

37 (3) This subdivision shall not be construed as limiting the
38 information provided to law enforcement agencies to that pertaining
39 only to applicants for, or recipients of, benefits.

1 ~~(4) The department shall notify all applicants for benefits that~~
2 ~~release of confidential information from their records will not be~~
3 ~~protected should there be a felony arrest warrant issued against~~
4 ~~the applicant or in the event of an investigation by a law~~
5 ~~enforcement agency into the commission of a felony.~~

6 ~~(j) To provide public employee retirement systems in California~~
7 ~~with information relating to the earnings of any person who has~~
8 ~~applied for or is receiving a disability income, disability allowance,~~
9 ~~or disability retirement allowance, from a public employee~~
10 ~~retirement system. The earnings information shall be released only~~
11 ~~upon written request from the governing board specifying that the~~
12 ~~person has applied for or is receiving a disability allowance or~~
13 ~~disability retirement allowance from its retirement system. The~~
14 ~~request may be made by the chief executive officer of the system~~
15 ~~or by an employee of the system so authorized and identified by~~
16 ~~name and title by the chief executive officer in writing.~~

17 ~~(k) To enable the Division of Labor Standards Enforcement in~~
18 ~~the Department of Industrial Relations to seek criminal, civil, or~~
19 ~~administrative remedies in connection with the failure to pay, or~~
20 ~~the unlawful payment of, wages pursuant to Chapter 1~~
21 ~~(commencing with Section 200) of Part 1 of Division 2 of, and~~
22 ~~Chapter 1 (commencing with Section 1720) of Part 7 of Division~~
23 ~~2 of, the Labor Code.~~

24 ~~(l) To enable federal, state, or local governmental departments~~
25 ~~or agencies to administer child support enforcement programs~~
26 ~~under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et~~
27 ~~seq.).~~

28 ~~(m) To provide federal, state, or local governmental departments~~
29 ~~or agencies with wage and claim information in its possession that~~
30 ~~will assist those departments and agencies in the administration~~
31 ~~of the Victims of Crime Program or in the location of victims of~~
32 ~~crime who, by state mandate or court order, are entitled to~~
33 ~~restitution that has been or can be recovered.~~

34 ~~(n) To provide federal, state, or local governmental departments~~
35 ~~or agencies with information concerning any individuals who are~~
36 ~~or have been:~~

37 ~~(1) Directed by state mandate or court order to pay restitution,~~
38 ~~finest, penalties, assessments, or fees as a result of a violation of~~
39 ~~law.~~

~~(2) Delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by those agencies. The information released by the director for the purposes of this paragraph shall not include unemployment insurance benefit information.~~

~~(e) To provide an authorized governmental agency with any or all relevant information that relates to any specific workers' compensation insurance fraud investigation. The information shall be provided to the extent permitted by federal law and regulations. For the purposes of this subdivision, "authorized governmental agency" means the district attorney of any county, the office of the Attorney General, the Department of Industrial Relations, and the Department of Insurance. An authorized governmental agency may disclose this information to the State Bar, the Medical Board of California, or any other licensing board or department whose licensee is the subject of a workers' compensation insurance fraud investigation. This subdivision shall not prevent any authorized governmental agency from reporting to any board or department the suspected misconduct of any licensee of that body.~~

~~(p) To enable the Director of the Bureau for Private Postsecondary and Vocational Education, or his or her representatives, to access unemployment insurance quarterly wage data on a case-by-case basis to verify information on school administrators, school staff, and students provided by those schools who are being investigated for possible violations of Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code.~~

~~(q) To provide employment tax information to the tax officials of Mexico, if a reciprocal agreement exists. For purposes of this subdivision, "reciprocal agreement" means a formal agreement to exchange information between national taxing officials of Mexico and taxing authorities of the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department. Furthermore, the reciprocal agreement shall be limited to the exchange of information that is essential for tax administration purposes only. Taxing authorities of the State of California shall be granted tax information only on California residents. Taxing authorities of Mexico shall be granted tax information only on Mexican nationals.~~

1 ~~(r) To enable city and county planning agencies to develop~~
2 ~~economic forecasts for planning purposes. The information shall~~
3 ~~be limited to businesses within the jurisdiction of the city or county~~
4 ~~whose planning agency is requesting the information, and shall~~
5 ~~not include information regarding individual employees.~~

6 ~~(s) To provide the State Department of Developmental Services~~
7 ~~with wage and employer information that will assist in the~~
8 ~~collection of moneys owed by the recipient, parent, or any other~~
9 ~~legally liable individual for services and supports provided pursuant~~
10 ~~to Chapter 9 (commencing with Section 4775) of Division 4.5 of,~~
11 ~~and Chapter 2 (commencing with Section 7200) and Chapter 3~~
12 ~~(commencing with Section 7500) of Division 7 of, the Welfare~~
13 ~~and Institutions Code.~~

14 ~~(t) Nothing in this section shall be construed to authorize or~~
15 ~~permit the use of information obtained in the administration of this~~
16 ~~code by any private collection agency.~~

17 ~~(u) The disclosure of the name and address of an individual or~~
18 ~~business entity that was issued an assessment that included~~
19 ~~penalties under Section 1128 or 1128.1 shall not be in violation~~
20 ~~of Section 1094 if the assessment is final. The disclosure may also~~
21 ~~include any of the following:~~

22 ~~(1) The total amount of the assessment.~~

23 ~~(2) The amount of the penalty imposed under Section 1128 or~~
24 ~~1128.1 that is included in the assessment.~~

25 ~~(3) The facts that resulted in the charging of the penalty under~~
26 ~~Section 1128 or 1128.1.~~

27 ~~(v) To enable the Contractors' State License Board to verify~~
28 ~~the employment history of an individual applying for licensure~~
29 ~~pursuant to Section 7068 of the Business and Professions Code.~~

30 ~~(w) To provide any peace officer with the Division of~~
31 ~~Investigation in the Department of Consumer Affairs information~~
32 ~~pursuant to subdivision (i) when the requesting peace officer has~~
33 ~~been designated by the Chief of the Division of Investigation and~~
34 ~~requests this information in the course of and as part of an~~
35 ~~investigation into the commission of a crime or other unlawful act~~
36 ~~when there is reasonable suspicion to believe that the crime or act~~
37 ~~may be connected to the information requested and would lead to~~
38 ~~relevant information regarding the crime or unlawful act.~~

39 ~~(x) To enable the Labor Commissioner of the Division of Labor~~
40 ~~Standards Enforcement in the Department of Industrial Relations~~

1 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
2 uninsured employers. The information shall be provided to the
3 extent permitted by federal law and regulations.

4 (y) To enable the Chancellor of the California Community
5 Colleges, in accordance with the requirements of Section 84754.5
6 of the Education Code, to obtain quarterly wage data, commencing
7 January 1, 1993, on students who have attended one or more
8 community colleges, to assess the impact of education on the
9 employment and earnings of students, to conduct the annual
10 evaluation of district-level and individual college performance in
11 achieving priority educational outcomes, and to submit the required
12 reports to the Legislature and the Governor. The information shall
13 be provided to the extent permitted by federal statutes and
14 regulations.

15 (z) To enable the Public Employees' Retirement System to seek
16 criminal, civil, or administrative remedies in connection with the
17 unlawful application for, or receipt of, benefits provided under
18 Part 3 (commencing with Section 20000) of Division 5 of Title 2
19 of the Government Code.

20 (aa) To enable the Office of Statewide Health Planning and
21 Development to utilize data within the director's possession for
22 the purpose of the health care workforce clearinghouse established
23 pursuant to Section 128050 of the Health and Safety Code.
24 Personally identifiable information utilized by the Office of
25 Statewide Health Planning and Development pursuant to this
26 subdivision shall be confidential and not subject to public
27 inspection.

28 SEC. 4. The Legislature finds and declares that Sections 1, 2,
29 and 3 of this act impose a limitation on the public's right of access
30 to the meetings of public bodies or the writings of public officials
31 and agencies within the meaning of Section 3 of Article I of the
32 California Constitution. Pursuant to that constitutional provision,
33 the Legislature makes the following findings to demonstrate the
34 interest protected by this limitation and the need for protecting
35 that interest:

36 In order to protect the privacy of individual members of the
37 health care workforce, it is necessary to ensure that personally

- 1 ~~identifiable information regarding those individuals is protected~~
- 2 ~~as confidential.~~

O